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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JERRY MASON,  
*Petitioner*  
v.

:  
: Civil No. 1:00-CV-1490  
:

ROBERT W. MEYERS,  
Superintendent,  
*Respondent*

:  
: (Magistrate Judge Smyser) ✓  
:  
:

FILED  
HARRISBURG

JUN 25 2001

MARY E. D'ANDREA, C  
Per *[Signature]*  
DEPUTY CLERK

**PETITIONER'S MOTION FOR DEPOSITION AND  
CONTINUANCE OF BRIEFING**

AND NOW comes the petitioner, Jerry Mason, by his attorney Daniel I. Siegel of the Federal Public Defender's Office, and files this Motion for Deposition and Continuance of Briefing.

1. Petitioner Jerry Mason, a prisoner in the Pennsylvania penal system, has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254.
2. Mr. Mason is currently serving a sentence of fourteen to twenty-eight years imprisonment arising from convictions for kidnaping, rape, and related offenses.
3. On May 4, 2001, petitioner filed a Motion for Discovery, seeking to perform DNA tests on a pair of panties identified as Commonwealth Exhibit 21.

4. By order dated June 4, 2001, this Court directed that Exhibit 21 be produced for testing on or before June 18, 2001.

5. The Commonwealth has not produced Exhibit 21.

6. Assistant District Attorney Frank Barletta has informed undersigned counsel that he has been unable to locate Exhibit 21.

7. Petitioner asserts that he is actually innocent of the charged offenses, that he was mistakenly identified as the perpetrator of these offenses, and that DNA testing would exclude him as the source of the sperm found on Exhibit 21.

8. Because testing of Exhibit 21 is essential to a fair disposition of the instant case, petitioner seeks to conduct depositions to ascertain the whereabouts of this exhibit.

9. Depositions would be conducted in a location convenient to the Luzerne County Courthouse, at a time convenient to the Assistant District Attorney and his witnesses, with transcription expenses to be borne by the Federal Public Defender.

10. Depositions would be conducted pursuant to the requirements of Rule 30 of the Federal Rules of Civil Procedure.

11. Given the importance of DNA testing in the instant case, petitioner has demonstrated good cause for the requested discovery, as required under Rule 6(a) of the Rules Governing Section 2254 Cases.

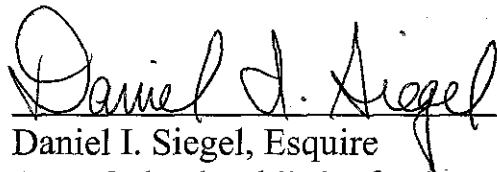
12. Because the results of the deposition and testing will affect the legal arguments to be presented to this Court, petitioner seeks a continuance of briefing to July 31, 2001.

WHEREFORE, it is respectfully requested that Petitioner's Motion for Deposition and Continuance of Briefing be granted.

Date:

June 25, 2001

Respectfully submitted,



Daniel I. Siegel, Esquire  
Asst. Federal Public Defender  
100 Chestnut Street, Suite 306  
Harrisburg, PA 17101  
Attorney for Jerry Mason  
Attorney ID # 38910

**CERTIFICATE OF CONCURRENCE**

I, Daniel I. Siegel, of the Federal Public Defender's Office certify that on June 25, 2001, I contacted Assistant District Attorney Frank P. Barletta, who indicated that he would consult with the District Attorney to determine whether or not he would concur in the motion. When the Commonwealth's concurrence or non-concurrence is received, petitioner will file a supplemental certificate.

Date: \_\_\_\_\_

June 25, 2001

Daniel I. Siegel  
DANIEL I. SIEGEL, ESQUIRE  
Asst. Federal Public Defender

**CERTIFICATE OF SERVICE**

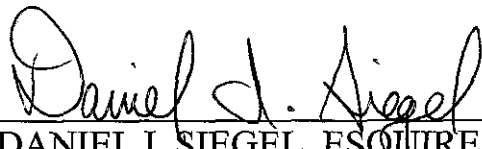
I, Daniel I. Siegel, of the Federal Public Defender's Office do hereby certify that on this date I served a copy of **PETITIONER'S MOTION FOR DEPOSITION AND CONTINUANCE OF BRIEFING** by placing the same in the United States mail, first class in Harrisburg, Pennsylvania, addressed to the following:

Frank P. Barletta, Esquire  
Assistant District Attorney  
Luzerne County Courthouse  
200 North River Street  
Wilkes-Barre, PA 18711

Jerry Mason  
Inmate No. BK-6012  
SCI Rockview  
PO Box A  
Bellefonte, PA 16823

Date: \_\_\_\_\_

June 25, 2001

  
\_\_\_\_\_  
DANIEL I. SIEGEL, ESQUIRE  
Asst. Federal Public Defender  
Attorney for Jerry Mason